

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Pacifica Foundation, Inc.	)	File No. EB-03-CF-097
WPFW	)	NAL/Acct. No. 200332340004
Washington, DC	)	FRN 0007-2593-10
	)	
	)	
	)	

**FORFEITURE ORDER**

**Adopted: July 23, 2004**

**Released: July 27, 2004**

By the Chief, Enforcement Bureau:

1. In this *Forfeiture Order* ("*Order*") we issue a monetary forfeiture in the amount of three thousand dollars (\$3,000) to Pacifica Foundation, Inc. ("Pacifica"), licensee of FM broadcast station WPFW, Washington, DC, for willful and repeated violation of Sections 11.61(a)(1)(i), 11.61(a)(2)(i)(A) and 73.1870(c)(3) of the Commission's Rules ("Rules").<sup>1</sup> The noted violations involved Pacifica's failure to conduct required monthly and weekly tests of the Emergency Alert System ("EAS") and failure to verify the log in writing by the chief operator.

2. In a March 26, 2003 *Notice of Apparent Liability for Forfeiture* ("*NAL*"),<sup>2</sup> the District Director of the Commission's Columbia, Maryland Office ("Columbia Office") issued a monetary forfeiture in the amount of \$3,000 to Pacifica. Pacifica does not contest the subject violations. In its April 23, 2003 response, Pacifica states that it has remedied the defects identified in the Commission inspection and seeks mitigation. However, no mitigation is warranted on the basis of Pacifica's correction of the violations. As the Commission stated in *Seawest Yacht Brokers*, 9 FCC Rcd 6099, 6099 (1994), "corrective action taken to come into compliance with Commission rules or policy is expected, and does not nullify or mitigate any prior forfeitures or violations."<sup>3</sup> Further, Pacifica states it is a small business entity, in support of its request that the forfeiture be reduced, without providing any financial documentation. It is well established that reliance on small business status alone without substantiation of the inability to pay claim is insufficient.<sup>4</sup>

3. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Act<sup>5</sup>, and

<sup>1</sup> 47 C.F.R. §§ 11.61(a)(1)(i), 11.61(a)(2)(i)(A) and 73.1870(c)(3).

<sup>2</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200332340004 (Enf. Bur., Columbia Office, released March 26, 2003).

<sup>3</sup> See also *Callais Cablevision, Inc.*, 17 FCC Rcd 22626, 22629 (2002); *Radio Station KGVV, Inc.*, 42 FCC 2d 258, 259 (1973); and *Executive Broadcasting Corp.*, 3 FCC 2d 699, 700 (1966).

<sup>4</sup> See *Forfeiture Policy Statement*, 12 FCC Rcd 17087, 17109 ¶¶ 51-52 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); see, e.g., *Jerry Szoka*, 14 FCC Rcd 20147, 20150 ¶¶ 9-10 (1999).

<sup>5</sup> 47 U.S.C. § 503(b).

Sections 0.111, 0.311 and 1.80(f)(4) of the Commission's Rules<sup>6</sup>, Pacifica Foundation, Inc., **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of three thousand dollars (\$3,000) for its willful and repeated violation of Sections 11.61(a)(1)(i), 11.61(a)(2)(i)(A) and 73.1870(c)(3) of the Rules.

4. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.<sup>7</sup> Payment shall be made by mailing a check or similar instrument, payable to the order of the "Federal Communications Commission," to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note NAL/Acct. No. 200332340004 and FRN 0007-2593-10. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>8</sup>

5. **IT IS FURTHER ORDERED THAT** a copy of this *Order* shall be sent by first class mail and certified mail, return receipt requested, to Pacifica Foundation, Inc., 1929 Martin L. King Jr. Way, Berkeley, CA 94704, and 2390 Champlain Street, NW, Second Floor, Washington, DC 20009-2620.

#### FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau

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<sup>6</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

<sup>7</sup> 47 U.S.C. § 504(a).

<sup>8</sup> See 47 C.F.R. § 1.1914.